

**A SUBSTITUTE ORDINANCE BY
PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE**

AN ORDINANCE TO AMEND THE CHARTER OF THE CITY OF ATLANTA, GEORGIA, ADOPTED UNDER THE AUTHORITY OF THE MUNICIPAL HOME RULE ACT OF 1965, O.C.G.A. 36-35-1 ET. SEQ., AS AMENDED, TO AMEND THE CHARTER OF THE CITY OF ATLANTA, GEORGIA 1996 GA LAWS P. 4469, ET. SEQ., BY AMENDING ARTICLE 4, COURTS, SECTIONS 4-106 AND 4-109 REGARDING THE APPOINTMENT OF JUDGES PRO HAC VICE TO THE MUNICIPAL COURT OF ATLANTA, TO REPEAL CONFLICTING ORDINANCES AND FOR OTHER PURPOSES

Whereas, the Charter of The City of Atlanta Georgia, 1996 Ga Laws P. 4469 et seq., (hereinafter, "the Charter") establishes the legislative power of the governing authority (hereinafter "Council") to amend the Charter of the City of Atlanta (hereinafter "City") by ordinance; and

Whereas, the judge pro hac vice are appointed by the mayor from panels of three nominees submitted by the Atlanta Judicial Commission; and

Whereas, the qualifications for said appointees are the same as for judges;

Whereas, it is the intent of Council to maintain a panel of experienced and qualified judges pro hac vice for the Municipal Court of Atlanta;

NOW THEREFORE BE IT ORDAINED,

Section 1: Article 4, Section 4-106(c), which reads:

(c) *Functions; duties.* Whenever a vacancy occurs in the positions of judges, solicitors and public defenders of city and municipal courts, or a judge pro hac vice of municipal court for any cause, the mayor shall provide written notification to the chairperson within 30 days of the act creating the vacancy or any new position. The judicial commission shall certify to the mayor a list of three nominees who are members of the State Bar of Georgia in good standing. Such list shall be submitted by the judicial commission no later than 90 days after receiving the above written notification from the mayor. The nominations and appointments to fill vacancies shall be based solely upon merit, legal experience, ability, and integrity. Any member shall be disqualified from consideration of an applicant who is related by blood or marriage.

Be hereby amended to read as follows:

(c) *Functions; duties* (1) Whenever a vacancy occurs in the positions of judges, solicitors and public defenders of city and municipal courts, or a judge pro hac vice of municipal court for any cause, the mayor shall provide written notification to the chairperson within 30 days of the act creating the vacancy or any new position. The judicial commission shall certify to the mayor a list of three nominees who are members of the State Bar of Georgia in good standing. Such list shall be submitted by the judicial commission no later than 90

days after receiving the above written notification from the mayor. The nominations and appointments to fill vacancies shall be based solely upon merit, legal experience, ability, and integrity. Any member shall be disqualified from consideration of an applicant who is related by blood or marriage.

(2) Notwithstanding subsection (1) of this section, municipal court judges of the City of Atlanta who resign or retire in good standing and who are members of the State Bar of Georgia in good standing shall be appointed Judge Pro Hac Vice.

Section 2: Article 4, Section 4-109(d), which reads:

- (d) Notwithstanding subsections (a) through (c) of this section, the mayor shall, at the mayors sole option, have the temporary authority for a period of one year from the effective date of this subsection to appoint any former City of Atlanta full-time or pro hac vice judge who resigns or retires in good standing to the Municipal Court without first observing the Atlanta Judicial Commission process provided in subsections (a) through (e) of Section 4-106 of this charter. In no event shall any full-time judge of the City Court who, although his or her position has been abolished by court consolidation and who is still entitled to his or her regular salary through the end of his or her term, serve on the municipal court pro hac vice for additional compensation. This prohibition shall not affect the right of any retired employee to collect pension or other retirement benefits. This subsection shall not longer be applicable and shall be repealed one year following the effective date of this subsection.

Be hereby amended to read as follows:

(d) The mayor shall appoint as Judge Pro Hac Vice any judge of the Municipal Court of Atlanta who resigns or retires in good standing, and who is a member of the State Bar of Georgia in good standing. Said appointment shall not be subject to the Atlanta Judicial Commission process. This section shall not affect the right of any retired employee to collect pension or other retirement benefits.

Section 3: A copy of this proposed amendment to the Charter of the City of Atlanta, Georgia (Ga. Laws 1996, p. 4469, et seq.), approved April 15, 1996, as amended, shall be filed in the office of the Municipal Clerk of the City of Atlanta and in the offices of the Clerks of the Superior Courts of Fulton and DeKalb Counties and that a "Notice of Proposed Amendment to the Charter of the City of Atlanta, Georgia, attached hereto as "Exhibit A" and by reference, made a part hereof, be published in the official organ of the county of the legal situs of the City of Atlanta or in a newspaper of general circulation in the City of Atlanta once a week for three weeks within a period of 60 days immediately preceding its final adoption, and that a copy of said advertisement shall be attached to this ordinance prior to its final adoption by the Council of the City of Atlanta.

Section 4: That all ordinances in conflict herewith are hereby repealed to the extent of the conflict.

AN ORDINANCE

BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

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(2) Notwithstanding subsection (1) of this section, municipal court judges who resign or retire in good standing, are members of the State Bar of Georgia in good standing, and who have made application for appointments as judge pro hac vice shall be appointed Judge Pro Hac Vice .

Section 2: Article 4, Section 4-109(d), which reads:

(d) Notwithstanding subsections (a) through (c) of this section, the mayor shall, at the mayors sole option, have the temporary authority for a period of one year from the effective date of this subsection to appoint any former City of Atlanta full-time or pro hac vice judge who resigns or retires in good standing to the Municipal Court without first observing the Atlanta Judicial Commission process provided in subsections (a) through (e) of Section 4-106 of this charter. In no event shall any full-time judge of the City Court who, although his or her position has been abolished by court consolidation and who is still entitled to his or her regular salary through the end of his or her term, serve on the municipal court pro hac vice for additional compensation. This prohibition shall not affect the right of any retired employee to collect pension or other retirement benefits. This subsection shall not longer be applicable and shall be repealed one year following the effective date of this subsection.

Be hereby amended to read as follows:

(d) The mayor shall appoint any former Municipal Court of Atlanta judge who resigns or retires in good standing, and who has made application to the judicial commission, to the municipal court without first observing the Atlanta Judicial Commission process provided in Section 4-106(a) through (e) of this chapter, if a there is a position vacancy. This section shall not affect the right of any retired employee to collect pension or other retirement benefits.

Section 3: That all ordinances in conflict herewith are hereby repealed to the extent of the conflict.

Legislative White Paper

Committee of Purview: Public Safety & Legal Administration

Caption:

AN ORDINANCE TO AMEND THE CHARTER OF THE CITY OF ATLANTA, GEORGIA, REGARDING THE APPOINTMENT OF JUDGES PRO HAC VICE TO THE MUNICIPAL COURT OF ATLANTA, TO REPEAL CONFLICTING ORDINANCES AND FOR OTHER PURPOSES

Council Meeting Date: 5/27/08

Legislation Title: Appointment of Judges Pro Hac Vice to the Municipal Court of Atlanta

Requesting Department: Judicial Agencies

Contract Type: N/A

Source Selection: N/A

Bids/Proposals Due: N/A

Invitations Issued: N/A

Number of Bids: N/A

Proposals Received: N/A

Bidders/Proponents: N/A

Justification Statement:

The mayor shall appoint any former Municipal Court of Atlanta judge who resigns or retires in good standing, and who has made application to the judicial commission, to the municipal court without first observing the Atlanta Judicial Commission process, if there is a position vacancy.

Background:

Whenever a vacancy occurs in the positions of judges, solicitors and public defenders of city and municipal courts, or a judge pro hac vice of municipal court for any cause, the mayor shall provide written notification to the chairperson within 30 days of the act creating the vacancy or any new position. The judicial commission shall certify to the mayor a list of three nominees who are members of the State Bar of Georgia in good standing. Such list shall be submitted by the judicial commission no later than 90 days after receiving the above written notification from the mayor. The nominations and appointments to fill vacancies shall be based solely upon merit, legal experience, ability, and integrity. Any member shall be disqualified from consideration of an applicant who is related by blood or marriage.

Municipal court judges who resign or retire in good standing, are members of the State Bar of Georgia in good standing, and who have made application for appointments as judge pro hac vice shall be appointed Judge Pro Hac Vice .

Fund Account Center:	N/A
Source of Funds:	N/A
Fiscal Impact:	N/A
Terms of Contract:	N/A
Method of Cost Recovery:	N/A
Approvals:	Budget Manager, Sr.
Prepared by:	Krystal Smith
Contact Number:	404.588.4777

TRANSMITTAL FORM FOR LEGISLATION

TO MAYOR'S OFFICE: Greg Pridgeon, Deputy Chief of Staff
(For review & distribution to Executive Management)

Commissioner Signature:  Director Signature: _____

Originating Dept: Judicial Agencies Contact Name: Krystal Smith 404-588-4777

Committee(s) of Purview: Public Safety & Legal Admin. Committee Deadline: _____

Committee Meeting Date(s): 5/27/08 City Council Meeting Date: 6/2/08

CAPTION

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FINANCIAL IMPACT: N/A

Mayor's Staff Only

Received by Mayor's Office: _____
(date)

Reviewed by: _____
(date)

Submitted to Council: _____
(date)